

# **EXHIBIT 1**

**From:** [Zwilling, Arlene](#)  
**To:** [Amy L. Bellantoni](#)  
**Subject:** Re: LaMarco v. Suffolk County  
**Date:** Thursday, May 11, 2023 12:27:37 PM  
**Attachments:** [image001.png](#)  
[PDCS-4016.pdf](#)  
[PDCS-4000p PISTOL LICENSE HANDBOOK VERSION P.pdf](#)

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I am attaching copies of the updated handbook and application instructions.

A series of six horizontal black redaction bars of varying lengths, stacked vertically, obscuring several lines of text.

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# **PISTOL LICENSE HANDBOOK**

**PDCS-4000p**



Pistol Licensing Bureau  
Suffolk County Police Department  
30 Yaphank Avenue  
Yaphank, New York 11980

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[suffolkpd.org](http://suffolkpd.org)

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## INTRODUCTION

This handbook serves as a general purpose guide to your duties and responsibilities as a pistol license holder in Suffolk County. The rules, regulations and procedures described herein are all promulgated pursuant to the Licensing Officer's authority under New York State Penal Law §§265.00 and 400.00. Nothing contained in this Handbook is meant to supersede or abridge any right or obligation contained in any local, state or federal law.

As a license holder it is your responsibility to be aware of the contents of this Handbook and to abide by its requirements. The most current version of the Handbook, along with all licensing forms, can be found at:

<https://suffolkpd.org/FormsandReports.aspx>

License holders are encouraged to review the Handbook and the information available online before calling the Licensing Bureau at (631) 852-6311.

## TABLE OF CONTENTS

<b>CHAPTER 1</b>	<b>Types of Pistol Licenses</b>	<b>Section</b>
Dwelling .....	1	
Business .....	2	
Employment .....	3	
Carry Concealed .....	4	
Semiautomatic Rifle .....	5	
Collector .....	6	
<b>CHAPTER 2</b>	<b>License Requirements</b>	
Requirements for all licenses .....	1	
Requirements specific to license type .....	2	
<b>CHAPTER 3</b>	<b>Application/Renewal/Cancellation</b>	
Initial Application .....	1	
Renewal of License .....	2	
Voluntary Cancellation of License .....	3	
<b>CHAPTER 4</b>	<b>Duties and Liabilities of a License Holder</b>	
Obligation to Safeguard Firearm .....	1	
Restricted and Sensitive Locations .....	2	
Incidents that Require a Police Report .....	3	
Incidents that Require Notification to the Pistol Licensing Bureau .....	4	
Grounds for License Suspension and/or Revocation .....	5	

## **CHAPTER 5 Firearms**

Purchasing Firearms .....	1
Transaction between Immediate Family Members.....	2
Purchasing Ammunition.....	3
Brady Handgun Violence Prevention Act.....	4
Registering a Deceased's Firearms .....	5
Reporting Lost or Stolen Firearms .....	6
Selling or Disposing of Firearms .....	7
Consignment .....	8
Antique Firearms .....	9
Assault Weapons .....	10
Large Capacity Ammunition Feeding Devices.....	11

## **CHAPTER 6 Dealer, Range and Gun Show Information**

Dealer License Form .....	1
Dealer License/Sign Exhibition and Display .....	2
Dealer Gun Rentals at Ranges.....	3
Gun Show or Event .....	4

## **CHAPTER 7 Administrative Procedures**

Name Change .....	1
Address Change.....	2
Business Name Change .....	3

## **CHAPTER 8 Miscellaneous Information**

Safety Training .....	1
Office Staff Availability .....	2
Currency .....	3
Notary .....	4
Public Records Exemption .....	5

## **CHAPTER 9 Questions and Answers .....** 1

## **APPENDIX A Reasons for License Disapproval .....** 1

## CHAPTER 1

### TYPES OF PISTOL LICENSES

#### SECTION 1 –Dwelling<sup>1</sup>

This license entitles the holder to possess a firearm within his or her residence<sup>2</sup> in the five western towns of Suffolk County: Babylon, Brookhaven, Huntington, Islip, Smithtown.

The holder is permitted to transport the firearm to and from its point of purchase/sale and the holder’s Suffolk County residence, and to and from the Licensing Bureau and the holder’s Suffolk County residence.

Firearms may be transported between your home and an authorized firing range and/or a legal hunting area in New York State. For the purpose of hunting, you are reminded that you must also possess a valid New York State hunting license.<sup>3</sup>

Previously referred to as a “Sportsman” license.

#### SECTION 2 – Business<sup>4</sup>

This license entitles the holder to possess a firearm within his or her place of business which is located in the five western towns of Suffolk County: Babylon, Brookhaven, Huntington, Islip, Smithtown.<sup>5</sup>

The holder is permitted to transport the firearm ONLY to and from its point of purchase/sale and the holder’s Suffolk County business premises, and to and from the Licensing Bureau and the holder’s Suffolk County business premises. In order to transport the firearm to the holder’s Suffolk County residence, the holder must also have a Dwelling license.

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<sup>1</sup> Penal Law §400.00(2)(a)

<sup>2</sup> Penal Law §400.00(3)(a). *Osterweil v. Bartlett*, 21 N.Y.3d 580, 999 N.E.2d 516, 977N.Y.S.2d 153 (2013)

<sup>3</sup> *Davis v. Clyne*, 58 A.D.2d 947, 397 N.Y.S.2d 186 (3d Dept. 1977)

<sup>4</sup> Penal Law §400.00(2)(b)

<sup>5</sup> *People v. Wallace*, 31 N.Y.3d 503, 105 N.E.3d 1238, 80 N.Y.S.3d 658 (2018)

## **SECTION 3 – Statutory Employment**

This license entitles the holder to possess a firearm and carry it concealed while engaged in specific types of employment:

A messenger employed by a banking institution or express company<sup>6</sup>

A judge<sup>7</sup>

Employment<sup>8</sup>

A Security Guard

Auxiliary Police

The holder must also have a Dwelling license and is permitted to transport the firearm between the holder's Suffolk County residence and place of employment, and carry the firearm while engaged in the specified employment.

Previously referred to as a "Business" license for messengers and an "Employment" license for judges and corrections officers.

## **SECTION 4 – Carry Concealed<sup>9</sup>**

This license entitles a licensee to possess and carry concealed, without regard to employment.

## **SECTION 5 – Semiautomatic rifle<sup>10</sup>**

This license entitles a licensee to possess a semiautomatic rifle when transfer of ownership occurs.

## **SECTION 6 – Collector<sup>11</sup>**

This license entitles a licensee to possess, Collect and Carry Antique Pistols.

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<sup>6</sup> Penal Law §400.00(2)(c)

<sup>7</sup> Penal Law §400.00(2)(d)

<sup>8</sup> Penal Law §400.00(2)(e)

<sup>9</sup> Penal Law §400.00(2)(f)

<sup>10</sup> Penal Law §400.00(2)

<sup>11</sup> Penal Law §400.00(2)(g)

## CHAPTER 2

### LICENSE REQUIREMENTS

#### SECTION 1 – Requirements for all licenses

In order to qualify for any type of pistol license, applicants must meet the criteria set out in the Penal Law.<sup>12</sup> Those criteria are provided for reference below, and are current as of the date of publication of this Handbook. All applicants must:

Be at least twenty-one (21) years of age at the time your application is submitted. No age restriction apply to those honorably discharged from any component of the United States military.

Be of good moral character. The lack of candor or honesty, a history of disregard for the law, and association with criminals are some things that exemplify a lack of good moral character.<sup>13</sup>

Have no prior conviction for a felony or other serious offense.<sup>14</sup>

Not be a fugitive from justice or have an outstanding warrant for a felony or serious offense.

Not be an unlawful user of or addicted to any controlled substance as defined in Section 21 U.S.C. §802.

If an alien, not be residing in the United States illegally or unlawfully, or pursuant to 18 U.S.C. §922(y)(2).

Not have been discharged from the Armed Forces under dishonorable conditions.

Not have renounced his/her United States citizenship.

Disclose whether he or she has ever suffered any mental illness.

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<sup>12</sup> Penal Law §400.00(1)

<sup>13</sup> *Peterson v. Kavanagh* 21 A.D.3d 617, 799 N.Y.S.2d 640 (3d Dept. 2005); *Perlov v. Kelly*, 21 A.D.3d 270, 799 N.Y.S.2d 502(1<sup>st</sup> Dept. 2005); *Biganini v. Gallagher* 293 A.D.2d 603, 742 N.Y.S.2d 73 (2d Dept. 2002).

<sup>14</sup> Defined in Penal Law §265.00(17)

Have not been involuntarily committed to a facility under the jurisdiction of an Office of the Department of Mental Hygiene pursuant to Article nine or fifteen of the Mental Hygiene Law, Article seven hundred thirty or Section 330.20 of the Criminal Procedure Law, Section four hundred two or five hundred eight of the Correction Law, Section 322.2 or 353.4 of the Family Court Act, or has not been civilly confined in a secure treatment facility pursuant to Article ten of the Mental Hygiene Law.

Have not had a guardian appointed for him or her pursuant to any provision of State Law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs.

Not have had a license revoked or be under a suspension or ineligibility order issued pursuant to the provisions of Section 530.14 of the Criminal Procedure Law or Section eight hundred forty-two-a of the Family Court Act.

The final statutory requirement in the Penal Law grants the Licensing Officer the authority to consider facts not specifically addressed above as grounds for disapproving an application.<sup>15</sup>

Other requirements affecting license eligibility:

Maintaining a residence in one of the five western towns of Suffolk County: Babylon, Brookhaven, Huntington, Islip, Smithtown.<sup>16</sup>

Not having been convicted of a misdemeanor crime of domestic violence.<sup>17</sup>

Not being subject to a permanent Court Order of Protection that prohibits harassing, stalking, or threatening an intimate partner or their child, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and includes a finding of a credible threat to the physical safety of such intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.<sup>18</sup>

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<sup>15</sup> Penal Law §400.00(1)(n); *Davis v. Clyne*, 58 A.D.2d 947, 397 N.Y.S.2d 186, appeal denied, 44 N.Y.2d 646, 406 N.Y.S.2d 1026 (1978); *Fortuniewicz v. Cohen*, 54 A.D.3d 952, 864 N.Y.S.2d 145 (2 Dept. 2008), lv. to app. den., 11 N.Y.3d 715, 873 N.Y.S.2d 532, 901 N.E.2d 1286.

<sup>16</sup> Penal Law §265.00(10); *Osterweil v. Bartlett*, 21 N.Y.3d 580, 977 N.Y.S.2d 153, 999 N.E.2d 51 (Ct. App. 2015)

<sup>17</sup> 18 U.S.C. §922(g)(9)

<sup>18</sup> 18 U.S.C. §922(g)(8)

## **SECTION 2 – Additional requirements specific to license type**

### **A. Dwelling License**

Applicants must meet the requirements outlined in Section 1 of this Chapter in order to qualify for a Dwelling License.<sup>19</sup>

### **B. Business license**

Applicants must meet the requirements outlined in Section 1 of this Chapter and additionally they must provide:

A physical description of the business location.

Documentation of the applicant's relationship to, and principal control over, the business premises.<sup>20</sup> In most cases, this license will issue to an **owner** and will require demonstration of ownership, such as articles of incorporation. In cases where the applicant is not the owner, but is vested with principal control of the premises, an affidavit from the owner on company letterhead will typically suffice.

Affidavits

Acknowledgement that handgun may only be carried on the premises and during the course of business for which the license was issued.

Statement describing the permanently affixed safe/lockbox where the weapon will be stored when not carried by the licensee. Statement that said safe/lockbox is only accessible to the licensee. Photo of safe/lockbox.

### **C. Employment License**

Applicants must meet the requirements outlined in Section 1 of this Chapter and additionally they must also provide:

A letter from employer including licensee's name, title, and license number

A copy of the licensee's agency-issued identification

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<sup>19</sup> *Shapiro v. Cawley* 46 A.D.2d 633, 360 N.Y.S.2d 7 (1<sup>st</sup> Dept. 1974)

<sup>20</sup> *People v. Wallace*, 31 N.Y.3d 503, 105 N.E.3d 123, 880 N.Y.S.3d 658 (Ct App 2018)

**D. Carry Concealed**

Applicants must meet the requirements outlined in Section 1 of this Chapter and additionally they must also provide:

A certificate of completion of a DCJS certified training course.

List of former or current Social Media within prior three years.

**E. Security** – Applicants must provide:

A letter from their employer including:

Applicant's name, address, Pistol License Number

New York State Security ID number

Number of hours worked per week and whether in uniform or plainclothes

Copy of firearms training certificate (47 hours) or Conditional Letter of Authority from New York State

Firearms training 8 hour refresher certificate where required

**F. Private Investigator**

Applicants who own/operate the business must provide their N.Y. State photo identification card and copy of their Private Investigator's License.

Applicants who are employees of an investigations firm must provide:

Copy of firm's N.Y. State License

Letter from employer confirming employment status and copy of photo identification issued by employer

Copy of firearms training certificate (47 hours)

**F. Government Employee**

Applicants must meet the requirements outlined in Section 1 of this Chapter, and also provide:

A letter from employing agency describing:

Licensee's name, address license number and position/title/rank in agency

Number of hours licensee works per week

A copy of the licensee's agency-issued identification

Copy of firearms training certificate (47 hours) or Conditional Letter of Authority from New York State

Firearms training 8 hour refresher certificate where required

**G. Retired Law Enforcement Officer**

Applicants must meet the requirements outlined in Section 1 of this Chapter, and also provide documentation that they:

Were employed as a law enforcement officer for an aggregate of 10 years;<sup>21</sup> and

During employment were authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person, AND had statutory powers of arrest; and

Separated from service in good standing; and

Possess the required identification and firearms qualification credentials; and

Are not otherwise disqualified from licensure under Title 18 United States Code §926C

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<sup>21</sup> Or completed a probationary term and separated for a service-connected disability

## CHAPTER 3

### APPLICATION/RENEWAL/CANCELLATION

#### SECTION 1 – Initial Application

A. An Applicant must submit a completed, signed Pistol License Applicant Questionnaire to the Licensing Bureau along with a check or money order for \$10. made payable to “SCPD”

A preliminary investigation will commence to determine if the Applicant is disqualified by operation of statute.<sup>22</sup>

Applicants eligible to proceed will be contacted by an Investigator to schedule an in-person interview.

B. When arriving for an in-person interview, an Applicant must bring:

Identification – Birth Certificate or United States Passport

Proof of residence (driver’s license, utility bill, etc.)

Proof of employment for all business/employment licenses

A MONEY ORDER for \$88.25 made payable to “SCPD”

C. For an initial Carry Concealed License the licensee will also be required to produce a NYS TRAINING CERTIFICATE.

D. During the interview the Investigator will review and confirm all forms and facts submitted by the Applicant. The Investigator may require the Applicant to submit additional information as the facts of each investigation dictate.

E. During the interview the Investigator will complete the Pistol/Revolver License Application (PPB-3) with the Applicant.

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<sup>22</sup> Convicted felon, prohibited by Brady Bill, etc.

The PPB-3 is a New York State Police form. Although the pistol license is issued by the SCPD, it is a state-wide license,<sup>23</sup> and must be registered with the New York State Police.

The Investigator will take the Applicant's fingerprints and photograph for inclusion on the PPB-3.

The Applicant will be given a copy of the PPB-3 in order to have each of their identified character witnesses sign next to their name directly on the form.

The Applicant will also be given Character Reference Affidavits to be filled out, signed, notarized and returned by the character references.

F. Following the interview, Applicants will be notified through the U.S. Mail whether they qualify for a pistol license.

Applicants who qualify will receive their license and any additional instructions in that mailing.

Applicants who fail to qualify will be advised in that mailing of the appeals process.

## **SECTION 2 – Renewal of Existing Pistol/Rifle License**

A. A pistol license is valid for 5 years from the date of issuance.<sup>24</sup>

B. Renewal process

A Renewal Application will be mailed to each licensee approximately 60 days prior to the expiration date of their license.

This mailing will include instructions and applicable fees

Licensees who do not receive a Renewal Application 30 days prior to the expiration of their license should contact the Licensing Bureau immediately.

C. Renewal fee is \$10.00 for each license.

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<sup>23</sup> Excluding New York City; Penal Law §400.00(6)

<sup>24</sup> Penal Law §400.00(10)

### **Renewal of Existing Pistol Carry Concealed License**

- A. A pistol license is valid for 3 years from the date of issuance.
- B. Renewal process

A Renewal Application will be mailed to each licensee approximately 60 days prior to the expiration date of their license.

This mailing will include instructions and applicable fees.

Licensees who do not receive a Renewal Application 30 days prior to the expiration of their license should contact the Licensing Bureau immediately.

- C. Renewal fee is \$10.00 for each license.

### **SECTION 3 - Voluntary Cancellation of Existing License**

- A. A licensee who does not possess any handguns can simply return their license to the Licensing Bureau with a request that it be cancelled.
- B. A licensee with registered handguns must first legally dispose of all handguns on their license before returning their license with a request that it be cancelled.

## **CHAPTER 4**

### **DUTIES AND LIABILITIES OF A LICENSE HOLDER**

#### **SECTION 1 – Obligation to Safeguard Firearms**

A. Responsible firearm storage is the law in New York State. Firearms outside the immediate possession and control of the owner or other lawful possessor must either be stored with a gun locking device or in a safe storage depository. Firearms should be stored unloaded and locked in a location separate from ammunition. Leaving firearms accessible to a child or other prohibited person may subject you to imprisonment, fine, or both.

B. You must inform the person that you have designated as the “safeguard person” on your application about their responsibility to notify the Licensing Bureau in the event you become incapacitated or die.

#### **SECTION 2 – Restricted and Sensitive Locations**

**As Per New York State Penal Law you are responsible to know the below Sensitive and Restricted locations and the possible criminal outcome of violating these locations.**

##### **Sensitive Locations**

- (a) any place owned or under the control of federal, state or local government, for the purpose of government administration, including courts.
- (b) any location providing health, behavioral health, or chemical dependence care or services.
- (c) any place of worship or religious observation.
- (d) libraries, public playgrounds, public parks, and zoos.
- (e) the location of any program licensed, regulated, certified, funded, or approved by the Office of Children and Family Services that provides services to children, youth, or young adults, any legally exempt childcare provider; a childcare program for which a permit to operate such program has been issued by the Department of Health and Mental Hygiene pursuant to the health code of the city of New York.
- (f) nursery schools, preschools, and summer camps.
- (g) the location of any program licensed, regulated, certified, operated, or funded by the Office for People with Developmental Disabilities.
- (h) the location of any program licensed, regulated, certified, operated, or funded by Office of Addiction Services and Supports.
- (i) the location of any program licensed, regulated, certified, operated, or funded by the Office of Mental Health.

- (j) the location of any program licensed, regulated, certified, operated, or funded by the Office of Temporary and Disability Assistance.
- (k) homeless shelters, runaway homeless youth shelters, family shelters, shelters for adults, domestic violence shelters, and emergency shelters, and residential programs for victims of domestic violence.
- (l) residential settings licensed, certified, regulated, funded, or operated by the Department of Health;
- (m) in or upon any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under Article one hundred one of the Education Law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools.
- (n) any place, conveyance, or vehicle used for public transportation or public transit, subway cars, train cars, buses, ferries, railroad, omnibus, marine or aviation transportation; or any facility used for or in connection with service in the transportation of passengers, airports, train stations, subway and rail stations, and bus terminals.
- (o) any establishment issued a license for on premise consumption pursuant to Article four, four-A, five, or six of the Alcoholic Beverage Control Law where alcohol is consumed and any establishment licensed under Article four of the Cannabis Law for on premise consumption.
- (p) any place used for the performance, art entertainment, gaming, or sporting events such as theaters, stadiums, racetracks, museums, amusement parks, performance venues, concerts, exhibits, conference centers, banquet halls, and gaming facilities and video lottery terminal facilities as licensed by the Gaming Commission.
- (q) any location being used as a polling place.
- (r) any public sidewalk or other public area restricted from general public access for a limited time or special event that has been issued by a permit for such time or event by governmental entity, or subject to specific, heightened law enforcement protection, or has otherwise had such access restricted by a governmental entity, provided such location is identified as such by clear and conspicuous signage.
- (s) any gathering of individuals to collectively express their constitutional rights to protest or assemble.
- (t) the area commonly known as Times Square, as such area is determined and identified by the city of New York; provided such area shall be clearly and conspicuously identified with signage.

**Restricted Location** is any private property in which a clear and conspicuous sign is not posted indicating carry of firearms, rifles or shotguns is permitted.

PL 265.01-e Criminal possession of a firearm, rifle or shotgun in a sensitive location.

1. A person is guilty of criminal possession of a firearm, rifle or shotgun in a sensitive location when such a person possesses a firearm, rifle or shotgun in or upon a sensitive location, and such person knows or reasonably should know such location is a sensitive location.

Criminal possession of a firearm, rifle or shotgun in a sensitive location is a **class E felony**.

PL 265.01-d Criminal possession of a weapon in a restricted location.

1. A person is guilty of criminal possession of a weapon in a restricted location when such person possesses a firearm, rifle, or shotgun and enters into or remains on or in private property where such person knows or reasonably should know that the owner or lessee of such property has not permitted such possession by clear and conspicuous signage indicating that the carrying of firearms, rifles, or shotguns on their property is permitted or has otherwise given express consent.

Criminal possession of a weapon in a restricted location is a **class E felony**.

### **SECTION 3 – Incidents that require you to make a Police Report**

You must IMMEDIATELY report the following incidents to the police:

- A. The loss or theft of your firearm(s);
- B. The theft of your pistol license;
- C. The discharge of your firearm.<sup>25</sup>

### **SECTION 4 – Incidents that require you to notify the Licensing Bureau**

You must report the following incidents to the Licensing Bureau within the time frame indicated

- A. Within 24 hours of occurrence:
  - 1. Any incident in Section 2 above
  - 2. Loss of your pistol license
  - 3. Confiscation or revocation of your pistol license in any jurisdiction
  - 4. Your arrest in any jurisdiction
  - 5. The arrest of any member of your immediate household in any jurisdiction
  - 6. The issuance of any criminal process against you or any member of your immediate household<sup>26</sup>
  - 7. The issuance of an Order of Protection against you or any member of your immediate household
  - 8. Surrender of your licensed handguns to any law enforcement agency

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<sup>25</sup> Except at a range or while hunting

<sup>26</sup> For example, a criminal summons, field appearance ticket or warrant or arrest

9. Your involvement in any domestic incident that resulted in a police response
10. Your evaluation for any mental health issues
11. Evaluation of any member of your immediate household for mental health issues

B. Within 10 days of occurrence

1. Change of your legal name, your home address or your telephone number
2. Change of your business address for Premises/ Business licenses
3. Change of your employment status for Employment, Business, Government licenses
4. Sale of your licensed firearm(s)

## **SECTION 5 – GROUNDS FOR SUSPENSION/REVOCATION**

A. The Licensing Officer may revoke or cancel a license at any time.<sup>27</sup>

B. The following acts WILL RESULT in the suspension and possible revocation of your license:

1. Improper use or display of your firearm<sup>28</sup>
2. Failure to properly safeguard your firearm<sup>29</sup>
3. Failure to make any notification required by Section 2 and Section 3 of this Chapter<sup>30</sup>
4. Failure to abide by the restrictions on your license as described in Chapter 2<sup>31</sup>
5. Falsification of any documents submitted, or any statements made, to the Licensing Bureau<sup>32</sup>
6. Failure to comply with requests from the Licensing Bureau<sup>33</sup>

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<sup>27</sup> Penal Law §400.00(11)(a)

<sup>28</sup> *DeAngelo v. Burns*, 124 A.D.3d 115, 63 N.Y.S.3d 767 (3<sup>rd</sup> Dept. 2015)

<sup>29</sup> *Trimis v. New York City Police Dept.* 300 A.D.2d 162, 752 N.Y.S.2d 47 (1 Dept. 2002), *leave to appeal denied* 100 N.Y.2d 503, 761 N.Y.S.2d 595, 791 N.E.2d 961.

<sup>30</sup> *Simmons v. New York City Police Dept.*, 35 A.D.3d 748, 825 N.Y.S.2d 768 (2d Dept. 2006); *Romanoff v. Kelly*, 23 A.D.3d 212, 806 N.Y.S.2d 6 (1<sup>st</sup> Dept. 2005)

<sup>31</sup> *D'Onofrio v. Kelly*, 22 A.D.3d 343, 802 N.Y.S.2d 159 (1<sup>st</sup> Dept. 2005); *Matter of Gordon v. La Cava*, 203 A.D.2d 290, 610 N.Y.S.2d 66 (2d Dept. 1994);

<sup>32</sup> *Nelson v. County of Suffolk*, 171 A.D.3d 756, 97 N.Y.S.3d 209 (2d Dept. 2019); *Matter of Capuano v Mahoney*, 232 A.D.2d 482, 648 N.Y.S.2d 657 (2d Dept. 1996)

<sup>33</sup> *Dixie v. Mulroy*, 216 A.D.2d 947, 629 N.Y.S.2d 349 (4<sup>th</sup> Dept. 1995)

7. Violating any state or federal law pertaining to the possession of any firearm or any type of ammunition<sup>34</sup>
8. Issuance of an Extreme Risk Protection Order against any member of your immediate household<sup>35</sup>
9. Issuance of a temporary Order of Protection against you<sup>36</sup>
10. Being the subject of a report issued pursuant to Mental Hygiene Law §9.46<sup>37</sup>
11. Associating with members of a criminal organization<sup>38</sup>

C. The following acts WILL RESULT in the revocation of your license:

1. Your conviction of a felony or a ‘serious offense’ as defined in §265.00(17) of the Penal Law<sup>39</sup>
2. Your conviction of a misdemeanor crime of domestic violence<sup>40</sup>
3. Your involuntary commitment to a facility for mental health treatment<sup>41</sup>
4. Your adjudication as a ‘mental defective’, as that term is defined by law<sup>42</sup>
5. The issuance of an Order of Protection against you<sup>43</sup>
6. Issuance of an Extreme Risk Protection Order against you<sup>44</sup>
7. Addiction to, or unlawful use of, any controlled substance<sup>45</sup>

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<sup>34</sup> *Khoshneviss v. Property Clerk of New York City Police Dept.*, 123 A.D.3d 929, 1 N.Y.S.3d 122 (2 Dept. 2014), *leave to appeal denied* 25 N.Y.3d 903, 7 N.Y.S.3d 275, 30 N.E.3d 166.

<sup>35</sup> Civil Practice Law and Rules §6342

<sup>36</sup> Criminal Procedure Law §530.14; Family Court Act §842-a; Penal Law §400.00(11)(a); *Gerard v. Koweek*, 122 A.D.3d 1112, 997 N.Y.S.2d 521 (3d Dept. 2014); *Romanoff v. Kelly*, 23 A.D.3d 212, 212, 806 N.Y.S.2d 6 (1st Dept. 2005)

<sup>37</sup> Penal Law §400.00(11)(b)

<sup>38</sup> *Biganini v. Gallagher*, 293 A.D.2d 603, 742 N.Y.S.2d 73 (2d Dept. 2002)

<sup>39</sup> Penal Law §400.00(11)(a)

<sup>40</sup> 18 U.S.C. §922(g)(9)

<sup>41</sup> 18 U.S.C. §922(g)(9); Penal Law §400.00(1)(j)

<sup>42</sup> 18 U.S.C. §922(g)(9)

<sup>43</sup> 18 U.S.C. §922(g)(8); Penal Law §400.00(11)(a)

<sup>44</sup> Civil Practice Law and Rules §6342

<sup>45</sup> “Unlawful use” contemplates taking drugs with regularity, over an extended period of time. *United States v. Purdy*, 264 F.3d 809, 812-13 (9th Cir. 2001).

## CHAPTER 5

### FIREARMS

**ALL HANDGUNS MUST BE UNLOADED PRIOR TO ENTRY INTO SUFFOLK COUNTY POLICE HEADQUARTERS AND/OR POLICE PRECINCTS. GUNS MUST BE CARRIED IN A CASE, BOX OR BAG.**

#### SECTION 1 - PURCHASING FIREARMS

You are not required to purchase or own a firearm to receive or maintain a pistol license. You are only authorized to possess the handguns listed on your pistol license. All rifle, shotgun and handgun purchases require the purchaser submit to, and pass a NICS check conducted by a Federal Firearms License holder. This requirement does not apply to transfers between members of an immediate family as defined by NYS General Business Law. The SCPD Pistol Licensing Bureau does not authorize the “co-ownership” of handguns. A handgun may only be registered on one (1) license.

You may not purchase a rifle, shotgun or pistol outside of New York State and have it shipped directly to you. To purchase such a weapon outside New York State, it must be done through an authorized gun dealer in the originating state who must ship the weapon to an authorized dealer in New York State. The possession of a Federal Firearms License (F.F.L.) does not authorize you to operate as a handgun dealer in the State of New York. Only a New York State Dealer in Firearms may conduct handgun transactions.

In order to purchase a pistol/semiautomatic rifle the licensee will need to come to Pistol Licensing Bureau with the following items:

The original bill of sale from an authorized dealer. Bill of sale must include the name, address, and license number of the dealer and purchaser, as well as the make, model, type, caliber and serial number of the handgun.

A letter on the dealer's business letterhead, containing the dealer license number, purchaser's name, pistol license number, date of sale, salesperson's signature as well as two photographs of the handgun one showing the entire handgun and one showing a close up of the serial number. We will not accept cellphone photographs.

In the event the above photograph policy cannot be created, Pistol Licensing Bureau will still accept the prior policy of two trips to Pistol Licensing Bureau.

In the event the purchaser does not take custody of the handgun within the required twenty days it is the responsibility of dealer to contact the Pistol Licensing Bureau and not relinquish the handgun until a new purchase document has been issued.

## **SECTION 2 - TRANSACTIONS BETWEEN IMMEDIATE FAMILY MEMBERS**

Firearm transactions between immediate family members, as defined by the New York State General Business Law, do not require a dealer in firearms as an intermediary.

If both the seller and the purchaser are immediate family members and are both Suffolk County pistol license holders, the transaction can take place at the Suffolk County Pistol Licensing Bureau. Both license holders must respond together with their licenses, the firearm, and a \$5.00 check or money order per person for each firearm being transferred.

If the seller and purchaser are immediate family members and the seller is licensed by another agency or is a law enforcement officer, the transaction can take place at the Suffolk County Pistol Licensing Bureau. Both the buyer and the seller must respond together with their licenses or law enforcement credentials, the firearm, and a \$5.00 check or money order per firearm being transferred.

If a Suffolk County pistol license holder is selling or disposing of a handgun to an immediate family member who is licensed by another agency or is a law enforcement officer, the buyer must comply with the purchasing requirements of their licensing agency or employer, as appropriate, and the seller must respond to the Suffolk County Pistol Licensing Bureau with their license, a copy of the buyers purchase document or "C" form, and a \$5.00 check or money order per firearm being transferred within twenty (20) days of the transaction.

### **SECTION 3 - PURCHASING AMMUNITION**

As per New York State Penal Law Section 400.03, all commercial ammunition purchases must be made from or conducted through a New York State Dealer in Firearms or New York State Seller of Ammunition as defined by that Section. No commercial transfer of ammunition shall take place unless a licensed Dealer in Firearms or registered Seller of Ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition pursuant to New York State Penal Law Section 400.03. Such transfer between the dealer or seller, and transferee must occur in person.

As per New York State Penal Law Section 270.00 sub. 5, it is unlawful for a Dealer in Firearms to sell any ammunition, designed exclusively for the use in a pistol or revolver, to an individual not authorized to possess a pistol or revolver.

### **SECTION 4 - BRADY HANDGUN VIOLENCE PREVENTION ACT**

As per Federal Law, a NICS (National Instant Criminal Background Check System) check must be completed in order for a Federal Firearms License holder to transfer any rifle, shotgun or handgun. It may take up to three (3) business days to receive a response from NICS, which will either authorize or deny the release of the weapon to an individual.

As per New York State Law, a NICS check must be performed on the purchaser of a rifle, shotgun or handgun prior to the completion of a private transfer. This check must be performed by a Federal Firearms License holder at his/her place of business and will require the dealer to “acquire” and “dispose” of the gun via his/her dealer books. In the case of a handgun transfer, the NICS check and transfer may only be completed by an individual or firm who possesses a New York State Dealer in Firearms License. If the purchaser is denied access to the weapon as a result of the NICS check, a NICS check will need to be performed on the original owner prior to the return of said weapon to same. The NICS check requirement does not apply to transfers between members of an immediate family as defined by New York State General Business Law.

**NOTE:** Pistol License holders are required to notify the Pistol Licensing Bureau of a NICS denial within one (1) business day of same.

## **SECTION 5 - REGISTERING A DECEASED'S FIREARMS**

Penal Law Section 265.20 (f) allows the executor or administrator of the estate of a deceased pistol license holder fifteen (15) days to lawfully dispose of the deceased's handguns. If they are not legally disposed of within that time, they must be surrendered to any precinct of the Suffolk County Police Department or to the Pistol Licensing Bureau. After legally disposing of the firearm(s), the executor of the estate or a family member of the deceased must surrender, in person or by mail, the deceased's pistol license with a document showing the disposition of the firearm(s) to the Pistol Licensing Bureau.

In order to lawfully dispose of a decedent's firearms, the following documentation must be obtained from the Surrogate Court in Riverhead:

- 1)** Letters of Administration/Certificate of Appointment of Administrator; or
- 2)** Letters Testamentary/Certificate of Appointment of Executor; or
- 3)** Certificate of Voluntary Administration

## **SECTION 6 - REPORTING LOST OR STOLEN FIREARMS**

According to Section 400.10 of the New York State Penal Law: Any owner or other person lawfully in possession of: (i) a firearm, rifle or, shotgun who suffers the loss or theft of said weapon; (ii) ammunition as well as a firearm, rifle or shotgun who suffers the loss or theft of such ammunition as well as a firearm, rifle or shotgun; shall within twenty-four (24) hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

**NOTE:** Notwithstanding any other provision of law, a violation of this Section shall be a class A misdemeanor and may result in suspension and/or revocation of your pistol licensing privileges.

## **SECTION 7 - SELLING OR DISPOSING OF FIREARMS**

To legally dispose of firearm(s), you must either:

- 1.** Surrender the firearm(s), **UNLOADED**, to any Suffolk County Police Precinct or the Pistol Licensing Bureau, or
- 2.** Sell or transfer the firearm(s) to a NYS Dealer in Firearms or member of your immediate family, or
- 3.** Sell a handgun to a FFL holder in another State. You may do this by common carrier or by having a local Dealer in Firearms transfer same to a FFL out of state, or
- 4.** Surrender the firearm(s) to a licensed Gunsmith to be rendered permanently inoperable or for destruction, or
- 5.** Place same on consignment by transferring (“selling”) firearm(s) to a licensed gun dealer to display and sell.

All licensed firearm(s) must be legally disposed of, and notification of such disposal must be made to the Pistol Licensing Bureau.

If you sell or dispose of a firearm, a bill of sale or a receipt from a licensed firearms dealer or gunsmith must be obtained. Original copies of these documents must be submitted in person, along with the license, to Suffolk County Police Department Pistol Licensing Bureau, within twenty (20) days of the disposition, so that your records may be amended accordingly, and the State Police may be notified as required. Faxes, copies, pictures or other duplicates of bills of sale will not be accepted.

If you dispose of a firearm by giving it to a gunsmith to be rendered permanently inoperable or destroyed, a receipt must be obtained from the gunsmith indicating the date of service as well as the nature of service performed. The receipt must also indicate the name, address and license number of both the gunsmith and the license holder, as well as the make, model, type, caliber and serial number of the firearm. Faxes, copies, pictures or other duplicates of bills of sale will not be accepted.

## **SECTION 8 - CONSIGNMENT**

Placing firearms on consignment entails selling same to a licensed gun dealer to display and sell. The law requires that such transactions are entered into his or her New York State and Federal

Dealer Record Books. The dealer must also give the licensee a receipt for the handgun. Although no money may have changed hands, the licensee must, within twenty (20) days of this transaction, respond to the Pistol Licensing Bureau and file an Amendment Form to remove the handgun from their license. If the licensee later changes his/her mind and wants the return of the handgun, they must obtain a Purchase Document and submit to, and pass a NICS check prior to the return.

**NOTE:** Gun “amnesty” programs or “guns for cash” programs are not considered acceptable methods of disposal for registered handguns.

If your license has expired, licensed firearm(s) must be surrendered to the Suffolk County Police Department. All other firearm(s) transactions must occur prior to the expiration of the license. If you sell or dispose of a firearm, a bill of sale or a receipt from a licensed firearms dealer or gunsmith must be obtained. These documents must be submitted in person, along with the license, to the Suffolk County Police Pistol Licensing Bureau, within twenty (20) days, so records may be amended accordingly and NYS Police may be notified.

## **SECTION 9 - ANTIQUE FIREARMS**

Current Statutes exempt UNLOADED antique firearms and replicas thereof from the existing licensing requirements. In order to fall within such category, muzzle loaders cannot be possessed loaded, or together with materials for loading. Persons who intend to shoot these weapons, or possess the components required to do so, must have a pistol license, and the weapon concerned must be registered. A purchase document does not need to be obtained prior to obtaining an antique firearm.

Once an antique firearm is registered on a Suffolk County Pistol License, disposal of said firearm shall follow the same rules and guidelines as any other registered pistol.

## **SECTION 10 - ASSAULT WEAPONS**

New York State Penal Law Section 265.00 (22) defines what is considered to be an “assault weapon” within the state of New York. New York State Penal Law Section 400.00 (16-a) authorizes individuals who lawfully possessed an assault weapon prior to January 15, 2013 to continue to possess said weapon provided they register it in accordance with that chapter on, or before April 15, 2014. The registration of rifles and shotguns that are considered to be assault weapons can be completed by submitting the requisite form via mail or online through the NYSP at <https://firearms.troopers.ny.gov/safeact/welcome.faces>. Previously possessed handguns

that are considered to be assault weapons should already be listed on your pistol license and do not require additional or further registration.

**Failure to Register an Assault Weapon** (class A misdemeanor). A person who knowingly fails to register an assault weapon by April 15, 2014 may be charged with Section 400.00 (16-a) (c) of the New York State Penal Law for their failure to register said firearm.

**Criminal Possession of a Firearm** (class E felony). A person who lawfully possessed an assault weapon prior to January 15, 2013, and knowingly failed to register said weapon may be charged with PL 265.01-b if they continue to possess the weapon after April 15, 2014.

**Criminal Possession of a Weapon 3rd** (class D felony). A person who acquires an assault weapon after January 15, 2013 is subject to full criminal liability for possessing the weapon unless he or she is covered by one of the exemptions in Section 265.20 of the New York State Penal Law.

Assault weapons may only be disposed of directly to a New York State Dealer in Firearms, a law enforcement officer who is an immediate family member, or to a Federal Firearms License holder in another state. Notification of the lawful disposal of an assault weapon must be made to the NYSP and/or Suffolk County Pistol Licensing Bureau, as appropriate, within seventy-two (72) hours of the disposal.

Qualified Retired New York or Federal Law Enforcement Officers, as defined by New York State Penal Law Section 265.00 (25), are authorized to register any assault weapon within sixty (60) days of retirement if:

- (a)** The weapon was issued to the officer, or
- (b)** The weapon was purchased by the officer prior to retirement and in the course of his/her official duties, AND
- (c)** The officer was qualified with the weapon by the agency from which he retired during the year prior to retirement.

## **SECTION 11 - LARGE CAPACITY AMMUNITION FEEDING DEVICES**

**Other than a Curio or Relic Feeding Device, possession of any feeding device with the ability to accept more than ten (10) rounds is illegal. See New York State Penal Law Section 265.20 for exceptions.**

An individual, who lawfully possessed a large capacity ammunition feeding device prior to January 15, 2013 and knowingly failed to dispose of it, can be arrested for Unlawful Possession of a Large Capacity Ammunition Feeding Device, a class A misdemeanor.

An individual, who acquired a large capacity ammunition feeding device after January 15, 2013, regardless of the date of manufacture, can be arrested for Criminal Possession of a Weapon 3<sup>rd</sup>, a class D felony. Additionally, an individual, who possesses any large capacity ammunition feeding device manufactured after September 13, 1994, regardless of the date of acquisition, can be arrested for Criminal Possession of a Weapon 3<sup>rd</sup>, a class D felony.

The restrictions applicable to large capacity ammunition feeding devices set forth by the New York State Penal Law shall not apply to a curio or relic feeding device.

Qualified Retired New York or Federal Law Enforcement Officers, as defined by New York State Penal Law Section 265.00 (25), are exempt from the restrictions on high capacity ammunition feeding devices provided:

- (a)** The magazine was issued to the officer, or
- (b)** The magazine was purchased by the officer in the course of his/her official duties, and
- (c)** The magazine “or a comparable replacement for such device” was possessed by the officer at the time of his/her retirement, and
- (d)** The employing agency had qualified the officer in the use of the weapon that accepts the magazine in accordance with applicable state or federal law enforcement qualification standards within the year prior to retirement, and
- (e)** The retired officer meets, at his/her own expense, the applicable standards for the weapon again within three (3) years after retirement and every three (3) years thereafter. (Officers who have already retired will have eighteen (18) months from the date of enactment to qualify).

## **CHAPTER 6**

### **DEALER, RANGE AND GUN SHOW INFORMATION**

#### **SECTION 1 - DEALER LICENSE FORM**

The New York State Dealer and Gunsmith license issued by the Suffolk County Police Department is valid only for the address for which it was issued. All dealer transactions must be done at the licensed premise. A Gunsmith or Dealer in Firearms License is not transferable to any other person or premise. (See GUN SHOW OR EVENT for premise exception).

#### **SECTION 2 - DEALER LICENSE/SIGN EXHIBITION AND DISPLAY**

A license as Gunsmith or Dealer in Firearms shall be prominently displayed at the licensed premise. The license must also be prominently displayed at an authorized gun show or event. The failure of any licensee to exhibit or display his or her license shall be presumptive evidence that he or she is not duly licensed.

#### **SECTION 3 - DEALER GUN RENTALS AT RANGES**

Gun dealers may rent handguns to licensees as long as the range they will be shooting at is on the premises of the dealer. The handgun may not leave the premises while under the rental agreement. Additionally, the dealer must utilize a log that will contain the date, name and license or shield number of the shooter, and the make, model, and serial number of the handgun.

#### **SECTION 4 - GUN SHOW OR EVENT**

New York State Penal Law Section 400.00 (8) allows a Gunsmith or Dealer in Firearms to conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. The license, or a photocopy of same, must be prominently displayed while at the temporary location. Records of receipt and disposition of firearm transactions conducted at such temporary locations shall include the location of the sale or other disposition and shall be entered in

the permanent records of the Gunsmith or Dealer in Firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. **Failure of any licensee to so exhibit or display his license, as the case may be, shall be presumptive evidence that he is not duly licensed.**

**As per New York State General Business Law Section 897:**

- 1.** A national instant criminal background check shall be conducted and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922 (T) (Brady Bill).
- 2.** No person shall offer or agree to sell or transfer a firearm, rifle or shotgun to another person at a gun show or dealer show location and transfer or deliver such firearm, rifle or shotgun to such person or person acting on his or her behalf thereafter for the purpose of evading or avoiding compliance with 18 U.S.C. 922 (T).
- 3.** Any person who knowingly violates any of the provisions of this section shall be guilty of a class (A) misdemeanor.

## **CHAPTER 7**

### **ADMINISTRATIVE PROCEDURES**

#### **SECTION 1 - NAME CHANGE**

If your name changes because of marriage, or for any other reason, you must, within ten (10) days, provide the Pistol Licensing Bureau with information necessary to change your records accordingly. The required information must be submitted in person and an Amendment Form must be filed to effect the change. There will also be a \$5.00 fee payable by check or money order required.

#### **SECTION 2 - ADDRESS CHANGE**

Should you change your residence from the address listed on the license to a new address in the five western towns of Suffolk County, you must personally appear with your license for the filing of an Amendment Form at the Suffolk County Police Pistol Licensing Bureau no later than ten (10) days after this change becomes effective. You must change the address on your New York State Driver License prior to responding to the Pistol Licensing Bureau, at which time you will have to submit proof of your relocation, and supply the requisite fee.

If you should move out of the five western towns of Suffolk County and relocate within New York State, Penal Law Section 400 allows you to transfer your records to the appropriate licensing officer in your new licensing jurisdiction. In order to accomplish this, you must, in person, notify the Suffolk County Police Pistol Licensing Bureau within ten (10) days of your move and file an Amendment Form and supply the requisite fee.

**FIREARMS REGISTERED ON A SUFFOLK COUNTY PISTOL LICENSE MUST BE SECURED AT THE RESIDENCE LISTED ON THE LICENSE.**

#### **SECTION 3 - BUSINESS NAME CHANGE**

If you have a “business” endorsement and the name, address and/or nature of the business has changed, you must contact the Suffolk County Police Pistol Licensing Bureau, and submit an Amendment Form in person showing the change, no later than ten (10) days after it becomes effective. Supplementary documents will be required to verify the change. The onus is on the licensee to show proof of necessity for the continuation of the endorsement. The requirements for a business endorsement, or the continuation thereof, are available on the Suffolk County Police website.

## **CHAPTER 8**

### **MISCELLANEOUS INFORMATION**

#### **SECTION 1 - SAFETY TRAINING**

Safety training is extremely important and every licensee is encouraged to participate in some type of handgun safety training.

#### **SECTION 2 - OFFICE STAFF AVAILABILITY**

The Pistol Licensing Bureau is open Monday – Friday, 9:00 AM to 4:30 PM. The main telephone number is 852-6311. The office is also closed on certain holidays based upon staff availability.

#### **SECTION 3 - CURRENCY**

The Pistol Licensing Bureau does not accept cash. We accept bank or personal checks and money orders only, which should be made out to: **S.C.P.D.**

#### **SECTION 4 - NOTARY**

The Pistol Licensing Bureau does not have a Notary Public on staff.

#### **SECTION 5 - PUBLIC RECORDS EXEMPTION**

Section 400.00 (5)(a) of the New York State Penal Law states that the name and address of any individual to whom a pistol license has been issued shall be a public record. Section 400.00 (5)(b) of the New York State Penal Law offers an applicant for a pistol license, or a current pistol license holder the ability to request exception to their information becoming a public record. The Application for Public Records Exemption is available for download on the SCPD website. Completed forms can be submitted in person at the SCPD Pistol Licensing Bureau or faxed to (631) 852-6670.

## CHAPTER 9

### QUESTIONS AND ANSWERS

The following is a list of common questions that are asked by pistol license holders.

**Do I have to own a handgun to maintain my pistol license?**

No.

**May I carry my gun loaded on my person when I go to the range?**

Yes, but it is not recommended that you do so. It is recommended that a license holder transport their firearm, unloaded, in a box or a bag. However, if you do choose to carry the firearm, it must be carried concealed and in compliance with the restrictions applicable to your endorsement.

**Do I have to secure my gun in a locked box when traveling through NYC?**

NYC mandates pistol license holders transport their handguns in a locked box separate from the ammunition and in the trunk or in a location not readily accessible to any occupant in the vehicle. Your travel through city limits must be continuous with no extraneous stops.

**What if I move from the address listed on my pistol license to a new address in the five western towns of Suffolk County?**

You must personally appear with your license for the filing of an Amendment Form at the Suffolk County Police Pistol Licensing Bureau no later than ten (10) days after this change becomes effective. You must change the address on your New York State Driver License prior to responding to the Pistol Licensing Bureau, at which time you will have to submit proof of your relocation, and supply the requisite fee.

**What if I am going to move out of my current licensing jurisdiction and my new residence will still be in New York State?**

You are required to respond to the Pistol Licensing Bureau and fill out an Amendment Form. Your license file will then be forwarded to your new licensing jurisdiction. Some jurisdictions will accept the file and issue you a new license, some will make you go through a new application process immediately, and others will make you wait until your current license is about to expire and will require you to file a new application several months prior to its expiration date.

**If I plan on moving out of state, how can I legally transport my firearms to my new home?**

Federal Law allows you to transport your firearms during your final move, unloaded and stored in a location not readily accessible to any occupant in the vehicle. Within ten (10) days of said move you must notify this office of your new address, telephone number and the disposition of all your registered handguns. We strongly recommend you check with local authorities before you relocate to determine what licensing laws you must comply with, if any.

**As a New York State pistol license holder, how do I buy a handgun from someone in another state and register it in New York State?**

The handgun must be shipped from a licensed gun dealer in the originating state to a licensed New York State Dealer in Firearms. You will have to obtain a purchase document from the Pistol Licensing Bureau and submit to and pass a NICS check before you can take possession of the handgun from that New York State dealer.

**Can anyone with a Federal Firearms License receive a handgun for me?**

No, although a Federal Firearms License (FFL) may be all a person needs in some states, New York State also requires in addition to the FFL, a New York State Dealer in Firearms License when receiving and shipping handguns. The only exception to that rule is the shipping to and from a gun manufacturer i.e., Smith & Wesson or Glock, for repairs. A handgun can be shipped directly to a manufacturer by its registered owner via common carrier, second-day air, or faster. The repaired firearm can then be shipped directly back to the registered owner. A replacement firearm for one that cannot be repaired **must** be shipped to a New York State Dealer in Firearms.

**What do I need to purchase a handgun?**

You must respond to the Pistol Licensing Bureau with a bank check, personal check or money order as well as a receipt from a NYS Dealer in Firearms indicating the make, model, type, caliber and serial number of the firearm(s) being purchased to obtain purchase documents for same. The cost is \$5.00 for each handgun and an additional \$5.00 for any other applicable amendment to the license.

**Do you take cash?**

No, we are not authorized to take any form of payment other than a bank check, personal check or money order.

**Who do I make out the check to?**

Checks must be made out to SCPD.

**My license is under suspension, am I still required to abide by the handbook?**

Yes. The laws, rules, regulations, and requirements of this handbook apply to all licensees, including while under suspension.

**I just received a Notice of Suspension. Can I sell my handguns to a gun dealer or transfer them to an immediate family member?**

No. Only after the handguns have been surrendered may they be transferred in accordance with State and Federal law.

**When are pistol license renewal applications mailed?**

Renewal applications are generally mailed two (2) months prior to the license expiration date. You are responsible to know when your license is about to expire. Renewing a pistol license is your responsibility. If your license is not renewed within thirty days after its expiration, the license will be cancelled and you will be required to surrender all handguns.

**If I change my residence, will the Post Office forward my renewal package?**

No, renewal packages will not be forwarded. If you change your residence, you are required by law to file an amendment form within ten (10) days of your move. If you make the proper notification, the package will be mailed to your current address.

**On my renewal application, who do I list as the person to safeguard my weapons? Do they have to have a license?**

You are to designate a responsible person who will agree to surrender or facilitate the surrender of your handguns for safekeeping in the event of your hospitalization, and/or incapacitation. In the event of your death such designee must legally dispose of your guns within fifteen (15) days. It is NOT necessary such person has a pistol license.

**For a renewal, what do I need for proof of residency? Can I show my Driver License?**

A Driver License alone is not an acceptable document to confirm residency. You must additionally produce a voter registration card, tax statement, utility bill, cable bill, telephone bill, etc.

**What does the NYSID box represent that I see on my renewal application?**

That number is issued by the New York State Department of Criminal Justice to identify you from the thousands of other residents that have had their fingerprints submitted to the state for criminal history searches. Your NYSID number is listed on the rear of your renewal instructions.

**On your renewal application you have a question that asks if I have been arrested or summoned to court. What if I was arrested since my last renewal and I already notified you about it. Do I still have to indicate it on the application?**

Yes, indicate the nature of the charge and insert in the space after that question: "ALREADY INVESTIGATED BY YOUR OFFICE". No additional notarized statement will be necessary.

**Do I have to bring my guns in for inspection when I renew my pistol license?**

No, unless specifically requested to do so.

**Is there a limit to the number of guns I can own?**

No.

**What if I plan on going to a gun show upstate and I don't know what gun I want to buy; can I still get a purchase document?**

Yes. You must respond to the Pistol Licensing Bureau with documentation of the gun show and apply for a blank purchase document.

**If I report one of my handguns lost or stolen and the police officer tells me he or she will notify the Pistol Licensing Bureau, do I still have to notify the Bureau anyway?**

Yes you do! Under any of the circumstances listed in Chapter 4 in the section heading: "INCIDENTS THAT REQUIRE NOTIFICATION TO THE PISTOL LICENSING BUREAU", you are also required to make the notification to this office within the specified time frame.

**Can a family member and I put the same gun on our licenses so we don't have to be together to fire the weapon?**

No. A handgun may only be registered to one (1) person.

**Are firearms defined under federal law as "antique firearms" automatically considered "antique firearms" under New York State Law?**

Not necessarily.

Federal law defines an "antique firearm" as:

Any firearm manufactured on or before 1898, or any replica of any firearm described in subparagraph (A) if such replica is not designed or redesigned for using rim fire or conventional center fire fixed ammunition, or uses rim fire or conventional center fire fixed ammunition which is no longer manufactured in the U.S. and which is not readily available in the ordinary channels of trade.

State law defines an “antique firearm” as:

Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or a revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

In plain language, if ammunition is readily available or if you possess the ammunition or components required to fire the weapon, it is not an “antique firearm” in New York State and it must be registered.

## APPENDIX A

### REASONS FOR LICENSE DISAPPROVAL

License applications will automatically be disapproved for the following reasons:

#### **AUTOMATIC PISTOL LICENSE DISQUALIFIERS PURSUANT TO NEW YORK STATE LAW**

1. Failing to indicate on the application that the applicant has been confined to any hospital or institution, public or private for mental illness.
2. Being convicted anywhere of a felony or serious offense.

#### **SERIOUS OFFENSES, AS DEFINED BY §265.00 (17) OF THE NYS PENAL LAW, ARE AS FOLLOWS:**

##### **PRESENT PENAL LAW**

120.45	Stalking in the fourth degree
120.50	Stalking in the third degree
125.60	Issuing abortional articles.
130.00	Offenses defined in Art. 130. (Sec Offenses), sections 130.20 Sexual Misconduct; Rape, all degrees; Consensual Sodomy; Sodomy, all degrees; Sexual Abuse, all degrees; Aggravated Sexual Abuse, all degrees; Course of Sexual Conduct Against a Child, all degrees.
140.45	Possession of Burglar's Tools.
165.25	Jostling
165.30	Fraudulent Accosting
165.40	Criminal Possession of Stolen Property 3rd.
220.00	Criminal Possession of a Controlled Substance, all degrees; Criminal Sale of a Controlled Substance, all degrees; Criminal Sale of a Controlled Substance in or Near School Grounds; Criminal Possession Hypodermic Instrument; Criminal Injection of a Narcotic Drug; Criminally Using Drug Paraphernalia, all degrees; Criminal Possession of Precursors of Controlled Substances; Criminal Sale of a Prescription for a Controlled Substance.
230.40	Promoting Prostitution 3rd;
235.00	Obscenity, and related offenses defined in section 235, sections 235.05 Obscenity 3rd; 235.06 2nd; 235.07 1st; 235.10 Obscenity; presumptions;

235.15	Obscenity or disseminating indecent material to minors 2nd;
235.21	Disseminating indecent material to minors 2nd; 235.22 1st;
240.35.3	Loitering - public place for engaging, or soliciting to engage with another, in deviate sexual intercourse or other sexual behavior of a deviate nature.
260.10	Endangering the Welfare of a Child.
265.01	Criminal Possession of a Weapon 4th; - Possesses any firearm, electronic dart gun, gravity knife, switchblade knife, pilum ballistic knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star. 265.01 sub.2 Criminal Possession of a weapon 4th; - Possession with intent to use against another, dagger, dangerous knife, dirk, razor, stiletto, imitation pistol.

For the purposes of Section 400.00, the term Serious Offense shall include a willful failure to obey a lawful Order of Protection issued under Article eight of the Family Court Act or Section 530.12 of the Criminal Procedure Law, where such willful failure involves the infliction of serious physical injury, or the use or threatened use of a deadly weapon or dangerous instrument.

#### **OLD PENAL LAW - PRIOR TO SEPTEMBER 1, 1967**

33	Public Health Law relating to narcotic drugs which was defined as a misdemeanor by section 1751a.
33A	Public Health Law relating to depressant and stimulant drugs defined as a misdemeanor by section 1747b.
106	Sodomy or rape which was designated as a misdemeanor.
235.20	Disseminating indecent material to minors. (old 484 sub. h).
405	Unlawful entry of a building.
408	Making or Possession of Burglar Instruments.
483	Endangering life or health of a child.
483 sub.b	Carnal abuse of child over 10 and under 16 years of age.
690	See Art. 106.
722 sub.6	Disorderly Conduct (Jostling.)
722 sub.8	Disorderly Conduct (Loiters for purpose of committing a crime against nature or other lewdness).
1308	Buying or Receiving Stolen Property.
1696	Aiding Escape from Prison.
1751 sub.a	See Art. 33
1747 sub.b	See Art. 33A
1897 sub.1	Illegally using, carrying or possessing a pistol or other dangerous weapon.

3. Having had a license revoked or being under a suspension or ineligibility order issued pursuant to the provisions of Section 530.14 of the Criminal Procedure Law

(Mandatory and permissive suspension of firearms license and issuance of temporary Order of Protection by the courts pursuant to subdivision one of Section 530.12 or subdivision one of Section 530.13) or Section 842(a) of the Family Court Act (Court Order of Protection).

4. Having been involuntarily committed to a facility under the jurisdiction of an Office of the Department of Mental Hygiene pursuant to Article nine or fifteen of the Mental Hygiene Law, Article seven hundred thirty or Section 330.20 of the Criminal Procedure Law, Section four hundred two or five hundred eight of the Correction Law, Section 322.2 or 353.4 of the Family Court Act, or having been civilly confined in a secure treatment facility pursuant to Article ten of the Mental Hygiene Law.
5. Having had a guardian appointed pursuant to any provision of State Law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, an individual lacks the mental capacity to contract or manage his or her own affairs.

#### **AUTOMATIC PISTOL LICENSE DISQUALIFIERS PURSUANT TO FEDERAL LAW**

1. Being convicted of a misdemeanor crime of domestic violence.
2. Being a fugitive from justice.
3. Being an unlawful user of or addicted to any controlled substance.
4. Being an alien who is illegally or unlawfully in the United States.
5. Having been discharged from the Armed Forces under dishonorable conditions.
6. Being an individual who, having been a citizen of the United States, has renounced his citizenship.
7. Being subject to a court order that:
  - (A) Was issued after a hearing of which such person received actual notice, and at which such person has an opportunity to participate;
  - (B) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
  - (C)
    - (i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child, or
    - (ii) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

## **DOMESTIC VIOLENCE**

Federal Law prohibits anyone from possessing firearms or ammunition if they are, or have been convicted of a misdemeanor crime of domestic violence. The term misdemeanor crime of domestic violence means "any offense defined as a State or Federal misdemeanor, whether or not explicitly described in a statute as a crime of domestic violence, which has, as its factual basis, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim's current or former domestic partner, parent or guardian." The term, "convicted" is generally defined in the statute as excluding anyone whose conviction has been expunged or been set aside, or anyone who has received a pardon.

## **ADDITIONAL REASONS FOR DISAPPROVAL**

**The lack of an "automatic bar" in your background does not guarantee the issuance or renewal of a pistol license. There are many other factors that are considered in the investigation into an individual's qualification to possess a pistol license. Reasons for disapproval, other than the above referenced automatic bars include, but are not limited to:**

- 1.** Having had a pistol license revoked in the last five years.
- 2.** Falsification of any part of the application or accompanying paperwork.
- 3.** The concealment or omission of any information during the application process.
- 4.** A lack of truthfulness on the application and any accompanying paperwork.
- 5.** If the director of community services or his or her designee has made a report pursuant to Section 9.46 of the Mental Hygiene Law indicating that the applicant, or a member of his/her household is likely to engage in conduct that would result in serious harm to self or others.
- 6.** Lack of good moral character.
- 7.** Other good cause.

## **CERTIFICATE OF RELIEF FROM DISABILITIES**

On occasion, an applicant who was convicted for a felony or serious offense submits, pursuant to Correction Law Section 701, a certificate of relief from disabilities. This certificate neither requires nor prevents the issuance of a pistol license. The Penal Law, Sec. 400(1) provides that a pistol license may not be issued to a person who has been convicted of a felony or serious offense, but Correction Law Sec. 701 states that, once a certificate is granted, the conviction to which it relates may no longer be considered a conviction for purposes of that Penal Law provision. Thus, the certificate removes the absolute disqualification established for convicted persons in Penal Law Sec. 400(1). **This does not mean, however, that the license must be issued.** The applicant's background, including the conviction, may still be evaluated and

considered in determining the applicant's qualification to possess a pistol license. The certificate must be checked off in box (C), and the details for box (C) must indicate, "For the purpose of obtaining a pistol license", Correction Law Section 701(3) states: A certificate of relief from disabilities shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege.